

REMARKS

Claims 1-20 were originally presented in the subject continuation application. Claim 1 has hereinabove been amended to more particularly point out and distinctly claim the subject invention. No claims have herein been added or canceled. Therefore, claims 1-20 remain in this case.

The addition of new matter has been scrupulously avoided. In that regard, support for the amendment to claim 1 can be found in the specification at, for example, Paragraph 0013 on page 3. The drawing changes were made as required by the Examiner in the parent case.

Applicants respectfully request entry of this Preliminary Amendment and Remarks.

Drawings

In response to drawing requirements set forth in the parent case, Applicants submitted marked-up images of FIGs. 1 and 2, as well as new FIG. 3 for the Examiner's approval prior to preparation and filing of formal drawings with the Official Draftsperson. Applicants have done the same herein.

35 U.S.C. §103 Rejection

The final Office Action in the parent case rejected claim 1 under 35 U.S.C. §103, as allegedly obvious over Dilloway (GB 2189993) in view of Ward (GB 2211387). Applicants respectfully, but most strenuously, traverse this rejection.

As an initial matter, Applicants continue to submit that Dilloway is improperly applied against the present application as nonanalogous art.

The final Office Action in the parent case argues that Dilloway is analogous art, alleging that Dilloway is within the field of endeavor, as both Dilloway and the present invention relate to blankets. Applicants submit this is far too broad a field to ascribe for purposes of the non-analogous art test, based on Federal Circuit case law. For example, in *In re Clay*, the Federal Circuit found non-analogous art, holding that the cited reference "cannot be considered to be within [the inventor's] field of endeavor merely because both relate to the petroleum industry."

In re Clay, 999 F.2d 656, 659, 23 U.S.P.Q.2d 1058, 1060 (Fed. Cir. 1992). As another example, the Federal Circuit held in *Wang Laboratories* that the cited art was non-analogous, because it concerned a different type of computer memory; that both related to memory alone was too broad. *Wang Laboratories, Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 U.S.P.Q.2d 1767 (Fed. Cir. 1993).

The determination that a reference is nonanalogous art involves two steps. *Heidelberger Druckmaschinen AG v. Hantscho Commercial Products Inc.*, 30 U.S.P.Q.2d 1377, 1379 (Fed. Cir. 1994); *In re Wood*, 599 F.2d 1032, 202 U.S.P.Q. 171, 174 (CCPA 1979). First, the reference is reviewed as to whether it is within the field of the Applicants' endeavor. *Id.* Second, if the reference is not in the field of endeavor, then a determination is made as to whether the reference is reasonably pertinent to the particular problem the inventor sought to solve. *Id.*

In determining what the field of endeavor is, courts have looked to the field of endeavor set out in a patent or patent application. See, e.g., *In re Wood and Eversole*, 202 U.S.P.Q. 171 (CCPA 1979).

In the present case, the Field of the Invention is set out in Paragraph 0002 as blankets for animals and in particular, to pet blankets having anti-flea properties. In contrast, Dilloway is directed to absorbent sheets for children that wet the bed and elderly with incontinence. There is no mention in Dilloway of other uses for the sheets. Therefore, Applicants submit that Dilloway is not within the field of Applicants' endeavor.

Thus, we turn to the second prong of the test; that is whether the reference is reasonably pertinent to the particular problem the inventor sought to solve. In this case, the problem is set out in the application as preventing flea infestations of and from pets in the home. See the present application at Paragraphs 0003 – 0008. Applicants submit that the Dilloway sheet is not reasonably pertinent to the problem the inventors of the present invention sought to solve. In particular, Dilloway seeks to remove moisture to the inner sheet of absorbent material, minimizing or eliminating exposure of the body thereon to liquids, while the present invention seeks to expose the pet to the anti-flea agent impregnated in the removable insert. This is actually the opposite teaching of Dilloway.

Therefore, Applicants submit that Dilloway is improperly cited against the present application as non-analogous art.

As a separate matter, but following on the description above of Dilloway as teaching the prevention or minimization of moisture exposure to the body lying on the sheet, Applicants submit that the combination of Ward with Dilloway is improper. Ward teaches the exposure of a pet to chemicals, rather than trying to prevent exposure. Thus, the teachings of Dilloway and Ward in that regard are in conflict, and the combination thereof improper.

Even if, somehow, it were ultimately held that Dilloway were analogous art, and that Ward was properly combined therewith, Applicants submit that the combination still fails to teach or suggest the present invention.

As amended, claim 1 recites, for example, a first layer of cloth. Applicants submit that neither Dilloway nor Ward teaches or suggests a first layer of cloth, nor the first layer in combination with the other limitations of claim 1.

Therefore, Applicants submit that claim 1 cannot be rendered obvious over Dilloway in view of Ward.

The Office Action also rejected claims 1 and 20 as allegedly obvious over Dilloway in view of Perdelwitz, Jr. et al. (U.S. Patent No. 4,961,930). Applicants respectfully, but most strenuously, traverse this rejection as it relates to amended claim 1.

Like Dilloway, Perdelwitz, Jr. et al. is at least partially concerned with removing liquids to the inner core. See Perdelwitz, Jr. et al. at, for example, column 8, lines 46-48. Moreover, Perdelwitz, Jr. et al. teaches a facing sheet of a non-woven thermoplastic-containing material. Thus, it fails to remedy the deficiency noted above with respect to Dilloway.

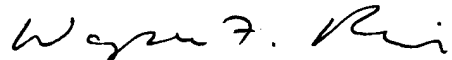
Therefore, Applicants submit that the combination of Dilloway with Perdelwitz, Jr. et al. also cannot render claim 1 obvious.

CONCLUSION

Applicants submit that the dependent claims not specifically addressed herein are allowable for the same reasons as the independent claims from which they directly or ultimately depend, as well as for their additional limitations.

For all the above reasons, Applicants maintain that the claims of the subject application define patentable subject matter and earnestly request entry of these remarks and allowance of claims 1-20.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorney invites the Examiner to telephone him at the number provided.



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